

1 The Honorable Robert S. Lasnik
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE
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15 EMERI HANSEN,)
16 v. Plaintiff,) No. C07-1971 RSL
17 RUI ONE CORP, a foreign corporation; and) [PROPOSED] STIPULATED
18 RESTAURANTS UNLIMITED, INC., a) PROTECTIVE ORDER
19 Washington corporation,)
20 Defendants.)
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The parties, by and through their respective counsel of record, agree that certain documents produced in this litigation contain information which is considered confidential. In order to protect these documents, the parties hereby stipulate and agree to the following Protective Order:

1. **Scope and Purpose of this Order:** This Protective Order shall govern the designation and handling of protected documents produced by any party in discovery in this litigation, whether by voluntary production or disclosure or in response to any formal discovery procedure, including designation and handling of nonpublic information of a confidential nature. This Protective Order does not affect any party's obligations under the Civil Rules to produce documents as required by the rules of discovery or an order of the court. The purpose of this Protective Order is to facilitate the handling of nonpublic information of a confidential nature.

1 **2. Standard for Protected Documents:** Any person who is required to produce
2 documents or information in discovery in this litigation may designate material produced as a
3 protected document(s) pursuant to this Protective Order. All designations must be based on the
4 good faith belief that the information constitutes (a) proprietary or sensitive business, personal,
5 medical, or financial information or (b) information subject to a legally protected right of
6 privacy.

7 **3. Protected Documents:** Protected document(s) are those documents marked
8 "CONFIDENTIAL" by any party. These documents, referred to hereinafter as "protected
9 documents," will be covered by this Protective Order and will be used only for the purposes of
10 this case, and will not be used by any party or his or her counsel for any purpose unrelated to this
11 case. Any medical record retrieved by MedRecs is a protected document and need not be
12 marked confidential.

13 **4. Designating Protected Documents:**

14 **a. Marking Protected Documents:** Protected documents shall be
15 designated as confidential by affixing to them the legend "CONFIDENTIAL" in a size and
16 location that makes the designation readily apparent, preferably in the lower right hand corner.

17 **b. Designating Deposition Testimony:** Any party or non-party wishing to
18 designate deposition testimony or deposition exhibits as confidential may do so on the record
19 during the deposition, or within 20 days after receipt of the deposition transcript and exhibits by
20 providing written notice of the designation to the parties and any other affected person. The
21 party making the designation shall be responsible for assuring that those portions of the
22 deposition transcript and exhibits designated as confidential are appropriately bound by the
23 reporter. All deposition testimony and deposition exhibits must be maintained in a manner
24 reasonably calculated to preserve their confidentiality for the 20 days following the receipt of the
25 transcript.

26 **c. Subsequent Designation:** A protected document produced or disclosed
27 without a "CONFIDENTIAL" designation may be subsequently designated by the any party as

1 confidential. In each such case, the designating person shall provide to all other parties written
2 notice of that designation and a copy of the document marked in accordance with paragraph
3 (4)(a). No person shall be liable for publicly disclosing a document marked "CONFIDENTIAL"
4 if that disclosure occurred prior to receipt of written notice pursuant to this paragraph.

5 **5. Maintaining Designated Protected Documents:** Any protected document must
6 be maintained in a manner reasonably calculated to preserve its confidentiality.

7 **6. Disclosure of Protected Documents:**

8 a. Except as set forth herein or by any subsequent court order, no protected
9 documents shall be delivered, exhibited, or disclosed to any persons unless done in a manner in
10 compliance with this Protective Order.

11 b. Protected documents may be delivered, exhibited or disclosed to the
12 following persons subject to the limitations in paragraph (5) of this Protective Order:

- 13 i. Counsel representing the named parties in this case and any
14 paralegal, clerical or other employee of such counsel
assisting in the prosecution or defense of this litigation;
- 15 ii. Any copying services hired by counsel to copy documents
16 in bulk;
- 17 iii. The court or any court personnel subject to the limitations
18 of paragraph (7);
- 19 iv. Any person testifying or attending a deposition subject to
20 the limitations of paragraphs (4)(b) and (5) of this
Protective Order;
- 21 v. Any person identified as having authored or having
22 previously received the protected document(s);
- 23 vi. The parties and their representatives for any purpose in this
24 litigation; and
- 25 vii. Former employees or agents if disclosed during a
deposition.

26 c. The parties' counsel shall require all persons, except those referred to in
27 paragraph (6)(b), before being given access to any protected document, to read and agree to be

1 bound by this Protective Order by endorsing the certification attached as Exhibit A. Counsel
2 shall retain this certification.

3 d. This Protective Order does not apply to information obtained by or made
4 available to any such person by means other than the discovery provisions of the Civil Rules.

5 7. **Filing of Protected Documents:** Confidential Information or Documents shall
6 be filed under seal with the Court in compliance with the district's electronic filing procedures.
7 The filing party must refer back to a contemporaneously-filed motion requesting (a) that the
8 document remain under seal pursuant to Local Civil Rule 5(g); (b) that the CONFIDENTIAL
9 designation be removed from the document and the seal be lifted; or (c) that the designating
10 party (who is not the filing party) be required to justify the designation in response to the motion,
11 even where the filing party does not oppose the designation

12 8. **Producing Parties Use of Protected Documents:** Nothing in this Protective
13 Order limits a producing party's use of its own documents or documents obtained through means
14 other than discovery requests or subpoenas in this litigation. Such disclosures shall not affect
15 any confidential designation made under the terms of this Protective Order.

16 9. **Inadvertent Disclosure:** The parties further agree that any party inadvertently
17 producing a privileged or work product document may, upon discovery of such inadvertent
18 production, request return of the document. The document must then be returned to the
19 producing party, subject to the right of any other party to contest the assertion of any attorney-
20 client or work product designation by appropriate motion to the court.

21 10. **Disputes as to Confidentiality Designation:**

22 a. **Meet and Confer Requirement:** If, at any time, a party disagrees with
23 the designation of a protected document, the parties must first attempt to resolve the dispute by
24 conferring.

25 b. **Protective Order:** If the dispute is not resolved through the meet-and-
26 confer process within 15 days of notification of the receiving party's disagreement with the
27 designation, the producing party will have 30 days to move the court for protection under the

1 Civil Rules. The parties may, however, agree to extend this period in order to bring any disputes
2 about designations of protected documents to the court either at one time or in as efficient a
3 manner as possible.

4 **c. Status Pending Resolution of Dispute:** Any disputed document or other
5 material must be treated as a protected document under this Protective Order until the court rules
6 otherwise.

7 **11. Rights of Parties:** This Protective Order is without prejudice to the right of any
8 party to apply to the court for any further protective order relating to any confidential
9 information or for an order permitting disclosure of any confidential information beyond the
10 terms of this Protective Order.

11 **12. Documents for Trial:** After the pretrial conference, the parties must meet and
12 confer to (a) reach an agreement as to the confidentiality of information to be used at trial, and
13 (b) designate documents as trial exhibits. If necessary, the parties or the court will also develop a
14 method for maintaining the confidentiality of such information and documents at trial. At the
15 producing party's request, any document previously designated confidential must be used at trial
16 only in a clean or redacted copy without any such designation.

17 **13. Upon Case Completion:** When this action, including appeals, concludes and
18 within 60 days after the litigation has been finally terminated, a producing party may request the
19 return or destruction of all protected documents produced in this litigation, except those filed
20 with the court or agreed by the parties to be retained for purposes of effectuating any judgment.
21 If such a request is made in writing, the recipient of the request will have 60 days in which to
22 (a) return the documents, (b) destroy the documents, or (c) file a motion with the court seeking
23 an order upon good cause shown that documents should not be destroyed or returned. Even if
24 there is no request to return the documents within the 60 days, the protected documents are still
25 subject to the Protective Order with special attention to paragraph (5).

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14. Commencement: The parties agree, by signature of counsel below, to abide by the terms of this Protective Agreement regardless of whether a subsequent order is signed by the court.

Dated this ____ day of _____, 2008.

The Honorable Robert S. Lasnik

Presented by:

JACKSON LEWIS LLP

By s/Barry Alan Johnsrud

Barry Alan Johnsrud, WSBA #21952
Laurie L. Johnston, WSBA # 25927
Attorneys for Defendant

Approved as to form; Notice of presentation waived.

MACDONALD HOAGUE & BAYLESS

By s/Andrea Brenneke

Andrea Brenneke, WSBA # 22027
Joseph R. Shaeffer, WSBA #33273
Attorneys for Plaintiff

1 EXHIBIT A
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3 I, _____, certify that I have received and read a copy
4 of the Protective Order in *Hansen v. RUI Corp., et al.* I agree to be bound by it. I further
5 understand that any protected document and any notes, memoranda or other form of information
6 derived from it, may not be used, copied or disclosed by me to anyone else except in strict
7 accordance with the Protective Order and then only for the prosecution and defense of this
8 litigation.

9 Dated this ____ day of _____, 20____, in _____, Washington.
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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on this day, I electronically filed a true and accurate copy of the document to which this declaration is affixed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

Andrea Brenneke
Joseph R. Shaeffer
MacDonald Hoague & Bayless
1500 Hoge Building
705 Second Avenue
Seattle, Washington 98104-1745
Email: andreib@mhb.com; josephs@mhb.com
Phone: 206-622-1604
Fax: 206-343-3961

Dated this 9th day of September, 2008, at Seattle, Washington.



Andrea W. Preston